IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2400 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 2403 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 2404 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 2405 OF 2005

Ashishbhai P. Patel & Ors. ...Applicants

Versus

State of Maharashtra & Anr ...Respondents

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Mr. A.S. Khan i/b M/s. A.S. Khan and Associates for the applicants.

Ms. Manini Magda i/b Bagla Dandekar & Co. for respondent No.2.

Mr. V.B. Konde Deshmukh, in application No. 2400 of 2005, Mr. S.R. Shinde, in application No. 2403 of 2005, Mr. M.S. Mhambray in application No. 2404 of 2005 and Mr. Rajesh More in application No. 2405 of 2005, A.P.Ps. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 27TH JUNE, 2005

P. C.:-

1. Heard the learned advocate for the applicants, learned advocate for respondent No.2 and the learned A.P.P. for the State. The learned advocate for the respondent No.2 undertakes to file V.P. in Criminal application No. 2403 of 2005 within 10 days from today.

2. The applicants have prayed for quashing of process issued against them in Criminal Case Nos. 1017/S/2003, 1289/S/2003, 688/S/2003 and 689/S/2003 which are pending in the Court of learned Metropolitan Magistrate, 20th Court, Mazgaon, Mumbai. In the said case, process has been issued against the applicants under Section 138 r.w. 141 of Negotiable Instruments Act.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. It is stated on behalf of the applicants that the applicants are residing in Gujrat and it is not possible for them to attend the trial Court on each and every date. Looking to this fact, I am inclined to grant exemption from personal appearance to the applicants before the trial Court unless the learned

Magistrate is of the opinion that their presence is absolutely necessary, in such case on notice being given to the applicants, the applicants shall remain present before the trial Court on the date indicated in the notice. On notice being given, if the applicants fail to remain present before the trial Court, the learned Magistrate may pass such orders as he may deem necessary in accordance with law.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Criminal applications are disposed of.

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